



THE REPLY OF LAW IN THE SERVICE OF MAN / AL-HAQ

TO

THE U.S. REPORT ON HUMAN RIGHTS PRACTICES IN THE
TERRITORIES OCCUPIED BY ISRAEL FOR 1982

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The Secretary of State,
The Department of State,
Washington D.C.

via The Consulate General, United States of America,
Jerusalem

Dear Sir,

Law in the Service of Man, the West Bank affiliate of the International Commission of Jurists, has read the section of the Country Reports on Human Rights Practices for 1982 submitted by the Department of State to the Committee on Foreign Relations, U.S. Senate, and the Committee on Foreign Affairs, U.S. House of Representatives, dealing with the territories occupied by Israel in 1967.

After carefully examining the Report LSM has noted certain omissions and misrepresentations. We have therefore prepared a reply to the Report which we enclose with this letter.

It is our hope that the information and observations contained in LSM's reply will be given careful consideration by you and your staff in the course of preparing the report for 1983, and that any necessary amendments to the 1982 Report be made for the record.

The enclosed reply has not yet been circulated. LSM intends to release this letter and the enclosed reply to the press one week from today.

U.S. STATE DEPARTMENT REPORT

Introduction

The Country Reports on Human Rights Practices for 1982, submitted to Congress by the U.S. State Department, was published in February 1983. The Report runs to just over 1300 pages and includes human rights reports on 162 countries. The Department of State is obliged by law to prepare such reports annually. Section 116(d)(1) of the Foreign Assistance Act, 1961, as amended, states as follows:-

The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by January 31 of each year, a full and complete report regarding --- (1) the status of internationally recognized human rights, within the meaning of subsection (a) --- (A) in countries that received assistance under this part, and (B) in all other countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act.

Section 503(B)(b) of the same act makes it mandatory for the Secretary of State to submit a full and complete report on the human rights situation in a country as part of the presentation materials for any security assistance proposal.

Preparation for the U.S. country reports begins in late summer. A message is distributed to all U.S. embassies and to the offices within the State Department involved in the preparation of the Report. The message incorporates guidelines concerning the schedule under which the individual reports are to be drafted by each embassy and submitted to the Department of State, and detailed instructions on format, drafting style and coverage. The original drafts are prepared by the U.S. diplomatic posts in the field. They are then sent to the State Department and revised by the appropriate country desk, by the geographic bureau concerned, by several bureaus which have responsibility for specific areas or functions covered in the report, and by the Bureau of Human Rights and Humanitarian Affairs which has overall responsibility for the preparation of the reports. The completed reports are then sent to Congress. The information in the reports is drawn from a variety of sources available to the U.S. embassy concerned and include:-

officials of foreign governments, private citizens, personal observations of U.S. officials, victims of human rights violations, intelligence information, press reports, non-governmental organizations and human rights bodies of international organizations. (U.S. Report, p. 13)

The introduction to this year's report stresses the importance

of human rights to U.S. foreign policy. On page 7 is stated: "Human rights is at the core of American foreign policy because it is central to America's conception of itself." On page 9 the means used to pursue this policy of human rights are outlined:-

Decisions on foreign assistance provided by the United States take human rights conditions into account. The transfer of police and military equipment is carefully reviewed in order to avoid identifying the United States with violations of human rights.

As the Report stresses the importance of human rights conditions in regard to the giving of U.S. aid, it is worth noting how U.S. foreign aid was in fact allocated in 1982. Total U.S. aid was \$9212.2M of which \$4114.6M was in the form of military aid. The largest single recipient of U.S. aid was Israel. \$2206M -- 24% of total U.S. aid -- went to Israel in 1982. Over half that amount (\$1400M) was for military uses -- 34% of all U.S. military aid. The top ten recipients of military aid in 1982 received over 80% of the total budget. Among these ten were South Korea, El Salvador, Turkey, and Thailand -- none of them regimes particularly noted for their strict concern for human rights. There seems therefore to be a major discrepancy between the stated aims of U.S. foreign policy and the reality. A possible reason for this difference is that the individual country reports do not provide a true picture of the human rights situation. LSM, a group concerned with the issue of human rights in the Israeli-occupied West Bank, having studied the Report, felt that there was a need for a reply. It is the immense amount of U.S. aid (equivalent to \$500 for every member of the population) which enables, for example, Israel to finance the expansion of its settlement programme in the occupied territories. This expansion, as this reply will hope to show, has a direct adverse effect on the situation of human rights. The introduction to the Report also mentions the fact that the annual reports are used as the basis for academic research. For this reason and because decisions on the granting of U.S. aid are, by law, dependent on the human rights report, we feel that the Report should be as correct and objective as possible.

THE OCCUPIED TERRITORIES

Introduction

The territories occupied by Israel following the 1967 War consisted of the West Bank, East Jerusalem, the Gaza Strip, the Golan Heights, and the Sinai Peninsula. In line with the provisions of the Egypt-Israeli Peace Treaty the Sinai Peninsula was handed back to Egypt on April 25, 1982. Throughout 1982 the West Bank and Gaza remained under Israeli military government, while the Israeli government regarded an enlarged East Jerusalem and the Golan Heights as subject to Israeli law, jurisdiction, and administration. Israeli law was extended to East Jerusalem, previously part of the West Bank, in 1967; the Golan Heights were annexed at the end of 1981.

The military governments of the West Bank and the Gaza Strip govern with a combination of pre-existing law and an ever increasing number of military orders. In 1982 the number of these orders reached the 1000 mark and by December 1982 there were 1015 such orders in force in the West Bank. The United Nations holds, and the United States agrees, that the Fourth Geneva Convention concerning the protection of civilians under military occupation applies to Israel's rule of the occupied territories. Israel itself denies that it is bound by the Convention, but declares that it nevertheless applies many of the provisions. The State Department Report, having made reference to the U.S. position on the question, makes no attempt to assess the extent to which Israel abides by the Geneva Convention. It is hoped that this reply will remedy that situation and discuss the extent to which Israel applies the provisions of the Convention, particularly with regard to Israeli settlement and the prohibition of certain types of collective punishment.

The Report on the situation of human rights in the occupied territories covers twelve pages. The tone of the report implies that the situation concerning human rights does not give grave cause for concern. Individual incidents are mentioned but the impression given is that these are isolated occurrences and are not part of an overall Israeli policy. The concluding paragraph of the introduction states:-

No major changes in the overall human rights situation are foreseen for the coming year. Absent dramatic progress in the peace process, confrontation between inhabitants of the territories and the occupation authorities is likely to remain at the same level as in recent years. Israel is likely to continue its efforts to contain and reshape the politics of the West Bank and Gaza through the Civil Administrations, the acquisition of land for settlements, official subsidization of population growth in existing settlements, and the financial and political support for the Village Leagues.

This seems to be complacent in the extreme. 1982 saw more deaths

and serious injuries caused by members of the Israeli Defence Forces than any other year since the occupation began. Shootings and beatings carried out by settlers have become common and are on the increase. At the end of 1982 no-body had been charged with the killings of two Palestinians which occurred in the spring. At the time the killings were attributed to settlers. It appears that even where settlers are not actively encouraged in their acts of vigilantism they are certainly not discouraged. The same could be said of members of the village leagues. Armed and financed by the military government and only responsible to the civilian administration, they have come to be seen as little more than quislings and an armed militia. In July members of the village leagues were responsible for the killing of one Palestinian and the wounding of another. No-one has ever been charged in relation to the event.

The speed at which new settlements are planned and built has been increasing since the election of Begin's government and it looks like it will continue to increase. On November 6, 1982 the Ministerial Committee on Settlements announced plans to add 57 more settlements in the West Bank, increasing the total settler population there to about 100,000 by 1987. This stress on settlement has given settlers confidence to take the law into their own hands on numerous occasions.

Although such acts and events have usually been recorded in the U.S. Report, the impression given is that these events are in response to supposed acts of Palestinian terrorism and as such are understandable. The word terrorism is mentioned seven times in the Report, although a thorough review of the Israeli press during 1982 fails to find these acts of terrorism, unless the definition is to be greatly expanded to include groups of stone-throwing students, commercial strikes, and peaceful demonstrations. Such demonstrations are used as justification for denials of human rights, but they often occur as a protest against an earlier denial of rights. The whole situation develops into vicious circle.

Another aspect of the Report which can easily result in readers obtaining a false impression is the practice of recording Israeli opinions and government statements as facts, while referring to any information provided by Palestinians as "allegations" and "complaints". In many cases these "allegations" and "complaints" have been substantiated in the Israeli press. It should be the aim of the Report to be objective and investigate the veracity of the allegations and complaints made by both sides, rather than relying on the information provided by the Military Government press office.

In preparing this reply, LSM has confined itself to information available during 1982. The sources used have been LSM's own research material and the Israeli press. LSM's records and documentation are open to the public and their existence was made known to the U.S. Consulate in East Jerusalem at the time they were preparing the 1982 Report. The Reply follows the same format as the U.S. Report, but it should be mentioned that LSM is primarily concerned with the human rights situation in the West Bank (including East Jerusalem) and therefore the Reply cannot speak conclusively about the situation in the Gaza Strip and the Golan.

1. Respect for the Integrity of the Person, Including Freedom from:

1a. Killing

U.S. Report

"No credible evidence of political murder by Israeli security forces came to light in 1982, and there is no reason to believe that such practices are condoned by the Government of Israel."

Having made this fairly conclusive opening statement, the Report goes on to list the killings that did occur in the occupied territories in 1982. According to the Report, several deaths resulted from terrorist attacks, responsibility for which was generally claimed by Palestinian organizations. One Israeli civilian and one settler were murdered and three more were wounded. Three Arabs were murdered, apparently, according to the U.S. Report, for their association with the Israeli-sponsored village leagues and there were other assassination attempts. The Report records Arab "allegations" that Israeli settlers carried out three grenade attacks on Palestinian houses and the placing of booby traps on a Hebron playground in the fall of 1982. The Report puts the total figure of deaths involving weapons or explosive devices at over 30, and states that, in addition, a large number of persons were wounded. The Report concludes by stating that Israeli settlers caused the deaths of at least three Arabs. Suspects were detained but there is no record of their being brought to trial.

The overall impression of the Report can be analysed thus:-

1. No political murder occurred in the occupied territories.
2. The Israeli authorities do not condone such killings if they do occur.
3. By highlighting "scores of instances of terrorism" and "numerous incidents involving explosive devices", the deaths that did actually occur appear to be justified.

LSM Reply

Thirty-two Palestinians were killed in the occupied territories by Israeli soldiers, settlers, or members of the village leagues during 1982. In the West Bank alone, 15 persons were shot dead during the period November 1981 - November 1982. Ten were shot by Israeli soldiers, four by settlers, and one by members of the village leagues. Of the fifteen who lost their life, eight were labourers, five were students, one was unemployed and one was a 40-year-old housewife. (Information from a survey conducted by LSM, see also Jerusalem Post 9.4.82) The Report states that such killings are not condoned by the Israeli government. The facts suggest otherwise. From the standing orders given to Israeli soldiers confronting demonstrations, and from the recorded response of the Israeli police and judiciary to certain

such killings, there are indications that such acts are implicitly, if not explicitly, condoned. In December 1982, the following article appeared in the Israeli newspaper, Ha'aretz:-

"A soldier was convicted for illegal use of arms while dispersing a demonstration in Judea and Samaria" - was the headline in Ha'aretz last Monday (27.12.82). The news item itself reported that it was a reserve service sergeant who was convicted by the military court following his own admission. The results of the shooting was one person dead and two wounded, a boy and a girl. In other words: illegal use of arms caused the death of one person and wounded two others. These facts were never disputed..... With these court findings before us, it is obvious that in this case the offence was a very serious one. It is not murder - it lacks the element of premeditated intention to hit in order to kill. But according to any legal criteria the offence was manslaughter, which should be punished with many years in prison. Nevertheless the court sentenced the sergeant to three months in prison and even this was only a suspended sentence, i.e. if he doesn't repeat this action he shall not be punished at all. The practical lesson is that one can shoot at and kill people in Judea and Samaria, in breach of the law, without being punished in any real sense. (Mati Golan - Ha'aretz 30.12.82)

On March 20, 1982, the body of Muhammad Abdullah Sahweil, aged 17, was found by a shepherd in the hills near the village of Sinjel. He had been shot dead. On March 21, a Jewish settler from Shilo settlement, Nathan Nathanson, was arrested and three days later he was charged with the shooting. A few days later, following pressure on the authorities from settlers, he was released. No-one has since been charged in connection with the death (Jerusalem Post 21.3.82, 24.3.82, In Their Own Words (World Council of Churches, Geneva, 1983) p. 18).

The implied justification for such killings by referring to acts of terrorism is also in conflict with the facts. As has already been mentioned, a thorough review of the Israeli press fails to find such unspecified acts of terrorism, unless the accepted definition of the word is to be greatly expanded. Those killed were all unarmed civilians, not armed terrorists. A large majority of those killed were shot at demonstrations or whilst trying to flee the site of demonstrations. A sworn affidavit held by LSM provides an illustration.

In this testimony Nur El Deen Abdel Kader Khalil Jaradat, 18 years, from the village of Sair near Hebron, describes how Abdel Raheem Jaradat (18 years) lost his life by shooting:-

On Thursday, April 29, 1982 at 7:15 in the morning, I walked to school as usual with Abdel Raheem Jaradat who is in the graduating class. As soon as we arrived at the school, Abdel Raheem went to his class which was doing extra hours to make up for time lost due to closure of the school. I and the other students remained outside in the schoolyard. We then heard the

sound of shots in the nearby town of Halhoul. A little later a car passed on its way to Hebron. The driver was blowing the horn, indicating that something unusual had happened. We stopped the car and asked the driver what the matter was. He told us that he had with him a wounded student from Halhoul High School. The driver also told us about the death of the student, Jamal Musa El-Shalaldeh, aged 17, from bullet wounds after being shot by Israeli soldiers in the demonstration which had taken place at the Halhoul school.

After hearing this, all the students (including those from the graduating class) got together in the yard. We were joined by the people from the village and we all went to the house of the murdered student, Jamal Musa El-Shalaldeh.

At 12 noon, we saw a bus full of soldiers and Israeli army patrols entering the village and firing shots in the air and at the group which had gathered near the house of the murdered student. With some other students Abdel Rahim and I tried to walk to the centre of the village. But when we found the soldiers shooting in all directions we went towards the mountain to take shelter. Abdel Raheem, however, insisted on getting to the centre to find out if there were any wounded persons as a result of the shooting and he would not be persuaded otherwise. So we had to leave him and go. When he was about 150 meters from us we saw three soldiers climbing the mountain on which we were. Abdel Raheem could not see them. We called to him, but he did not answer. In the meanwhile, the soldiers continued firing. We called louder but in vain. Then we saw Abdel Raheem fall to the ground. We tried to get to him to give him first aid, but the three soldiers had reached the place where he fell. We walked back a short distance, then saw a group of women coming screaming to the place where his body fell, trying to save him, but the soldiers prevented them from reaching him and Abdel Raheem remained on the ground. The soldiers prevented anyone from helping him.

In November, a paratroop officer was found guilty of causing the death of Abdel Raheem Abdel Kader Jaradat by negligence. He was given a four-month suspended sentence (Jerusalem Post 7.11.82).

1b. Disappearance

U.S. Report

"There were no known cases of individuals disappearing from the occupied territories in 1982."

The Report then mentions that there were complaints by the families of Palestinians who were arrested that relatives were not properly informed of the arrest. It also records claims made in the Arab press that over a dozen kidnappings of Arabs by Israeli settlers took place during 1982, and Arab complaints that no attempt was made to bring those responsible to justice.

LSM Reply

While it is true to say that disappearances do not occur on the scale that has been documented in countries such as Argentina, the threat of kidnapping by Israeli settlers remains a worry. LSM has investigated and confirmed 12 cases of kidnapping by Jewish settlers during 1982 and holds a number of sworn affidavits concerning the subject which are available to the public. In one such statement, Isam Mohammad, a 17-year-old student from El Bireh, told how he and a friend were abducted by settlers while out walking in Ramallah. They were held for four hours, being mocked and beaten for much of that time, before being released and made to walk home (In Their Own Words p. 17).

Another concern for Palestinians is the threat of arbitrary arrest and detention, which is dealt with more fully in Section 1e. In contrast to the implication in the U.S. Report, there is no duty on the Israeli authorities to give information about arrests other than the agreement to notify the Red Cross on the 12th day of arrest. Families are in fact never notified by Israeli authorities of the arrest of their relatives.

There have also been a number of cases where the Israeli authorities have reported deaths of Palestinians resulting from the preparation of home-made bombs. Many dispute this 'official' version and suspect that the individuals concerned have been taken by Israeli soldiers or settlers and killed and that they have been made to appear the victims of bomb accidents. On April 18, the Jerusalem Post reported that:-

The body of a young man was found near Dir Sharef near Nablus. According to security sources, he had been killed while preparing a bomb. Local residents say that he was abducted and killed.

On April 30th the Jerusalem Post quoted official Israeli casualty figures in the occupied territories during the spring disturbances:-

.... Security forces claim at least three Arabs have died while preparing home-made bombs. The Arabs claim that the individuals have been abducted and killed by the Army or by Israeli settlers and that their deaths have been 'arranged' to look like accidents.

1c. Torture

U.S. Report

"Israeli authorities have stressed repeatedly that torture is forbidden by Israeli law and that violators are punished."

The Report notes that there have been allegations by detainees of brutality, psychological and physical mistreatment by Israeli officers during interrogation, but that the number of such cases declined over the past two years and there is no indication that torture is condoned by the Israeli authorities. The Report then mentions the only well-documented case in 1982, which involved a British national. Those responsible were subsequently tried and imprisoned.

LSM Reply

The Report concentrates on Israeli statements that torture does not exist, without seemingly making an effort to investigate the subject. Few regimes in the world would publicly condone the use of torture, but the role of the State Department Report should be to investigate whether there is a basis for the large number of complaints of maltreatment and whether such maltreatment does constitute torture.

The difficulty in reporting on torture is in obtaining credible documentation. In 1980 Amnesty International published a report on a mission to Israel carried out in 1979. Its findings are still relevant today, and show the difficulty in conclusively proving allegations of torture and mistreatment.

According to the Israeli authorities, the questioning of security suspects in the Occupied Territories may be done either by military personnel, by security personnel (Shin Bet), or by members of the police including the Israeli 'Special Tasks Unit' (La Tam). In general, interrogators are not obliged to identify themselves to the person being questioned and, at least in the case of Shin Bet and La Tam (who are involved in the questioning of many suspects), they may work in plainclothes. This makes it difficult for the prisoner to identify even the service to which the interrogators belong. (Amnesty International Report of a Mission to Israel and the Occupied Territories, June 1979, p. 28)

Certain indicators can be used, however, to show whether or not there are adequate safeguards to prevent or discourage the use and occurrence of torture.

In response to questions from Amnesty International delegates, the Israeli authorities were unable to refer to any regulations governing the length of interrogation sessions, or to any code of practice for interrogating officers which might spell out types of treatment that are forbidden. The latter point is

important: investigating officers may either commonly or in individual cases regard certain types of behaviour as not constituting violent treatment of the arrested person (for example, verbal abuse, threats, ridicule, humiliation) even though such treatment would by international standards clearly constitute "cruel, inhuman, or degrading treatment". This "non-violent" behaviour would not only be wrong in itself, but can lead, in Amnesty International's experience, to the most direct sort of ill-treatment, particularly in the forms of beatings. (Ibid p.29)

In military court trials a great number of those convicted in the occupied territories are convicted on the basis of a confession to the charge. In order to protect the rights of the accused, the court rules require that in addition to the confession "something else" must be adduced to support the confession. This "something else" is distinct from corroborating evidence. It was explained to Amnesty International delegates as evidence which "relieves the inherent fear that the accused has confessed to something he hasn't done." It must be of such a nature as to prove "that the accused has not taken on himself something he could not have done" and to show "that it was possible for him to have done that which he has confessed to." The Amnesty Report lists five categories of "something else" which have been common in courts. These are:-

1. the indication report - where, after the arrest, the accused is photographed by police officials at the site where the offence is alleged to have been committed
2. the confirmation of details - such as date and place of birth, names of relatives, that were mentioned in the confession
3. the actual existence of persons whom the accused mentioned in the confession
4. indication on the accused's passport that he or she was indeed in a certain country at the time when the offence was allegedly committed there
5. someone else's confession.

It should be clear, therefore, that even a confession extracted by duress should be able to provide from within the "something else" that will be acceptable to the court and that the requirement therefore provides little protection for the accused.

There were many allegations of torture during 1982. Large numbers of statements have been sworn before lawyers, both Israeli and Palestinian, documenting these allegations. They are often backed up by full medical reports. The following statement was sworn before the Israeli lawyer, Felicia Langer, by 22-year-old Nasim Abdal Jali Aud Ahmad Daoud.

When I was brought to 'Sarafand' I was given a military type uniform and a bag was put over my head. An interrogator whom I knew as 'Abu Farid' began questioning me; he called me a liar and started hitting me with his fist. Later he called in guards who took me out of the interrogation room. I was stripped naked and then handcuffed and put outside in the rain. From time to

time they also hosed me down with cold water. I was forced to stand outside all night. From time to time I was beaten with clubs and fists, and also kicked. The next day I was also taken to see 'Abu Farid'. The interrogation was the same, with him asking questions, calling me a liar and hitting me with his fists. At one time during this interrogation I started bleeding from the nose after he hit my head against the wall. I was again led outside, stripped, and left all night with periodic beatings. This procedure went on for four days. I was beaten all over my body, including my feet, and I was swollen all over. At one point in the four days I was offered food, but was so sick that I couldn't eat.

The Report refers to 'the only well-documented case' in which a British teacher was beaten by two Israeli women soldiers. On July 11, 1982, Anne Scott, a British research assistant at Bir Zeit University, was detained in Ramallah military headquarters, where she was beaten by the two women on the upper arms, shoulders, and legs. The women were later detained and tried and sentenced (Jerusalem Post 20.7.82). The beating could hardly be defined as torture, but because it involved, not a Palestinian, but a British national, the incident received widespread publicity in the international press. The wording of the Report seems to suggest that only cases and allegations of torture in the Herald Tribune and the London Times will be regarded by the State Department as "well-documented" and that the complaints of a foreigner are more deserving of investigation than those of a Palestinian.

1d. Cruel, Inhuman, or Degrading Treatment or Punishment

U.S. Report

"Israeli laws and regulations provide recourse in cases of misbehaviour towards civilians."

The Report is divided into four parts: the behaviour of Israeli soldiers; the imposition of curfews; the activities of members of the village leagues; prisons and prisoners.

The section on Israeli soldiers states that soldiers have been observed "roughing up" individuals in the process of making arrests. 40 cases were filed against Israeli soldiers in the West Bank, in which at least 17 soldiers were convicted. In November 1982, seven soldiers were indicted for brutality in Hebron. The trial was still underway at the end of 1982. The implication of the Report is that such acts of cruelty and degradation are isolated and are the acts of a very small minority which are in no way condoned by the Israeli authorities. The Report further suggests that there is very adequate recourse available in the few cases where "misbehavior" does occur.

The Report noted that curfews were more frequent and of longer duration in 1982 than in preceding years, and caused considerable hardship to those affected. On several occasions men in villages and refugee camps were rounded up at night and held for extended periods. The Report also states that the towns of El Bireh, Ramallah, Nablus, and Halhul were totally closed by military order for at least three weeks in March and April, but no mention is made of the relevance of the Geneva Convention (which the U.S. holds to apply to the West Bank) to such collective punishment.

The Report notes that members of the village leagues were implicated in a number of instances of mistreatment, but does not refer to similar activities carried out by Israeli settlers.

The final part of this section deals with prisons and Palestinian prisoners. The Report notes overcrowding in prisons and complaints concerning medical and dental treatment, but more space is devoted to the work of the International Committee of the Red Cross (ICRC). The Report states that by agreement with Israel, Red Cross delegates are permitted to visit detainees after the fourteenth day of arrest. Complete freedom of discussion is allowed and the visits take place without witnesses. The Report also states that Israel allows the examination of detainees by an approved physician, and, where the ICRC considers it necessary, an ICRC physician may conduct an independent examination.

LSM Reply

The Report speaks of the prosecution of a number of soldiers for acts of brutality, but fails to mention that such prosecutions are only brought about as a result of the efforts of a minority of

concerned Israelis.

In May 1982, a press conference was called by ten members of the Israeli group Peace Now. All ten of them had recently returned from service in the army in the Hebron area. They outlined a long list of atrocities carried out by the Israeli army. One of the soldiers, Yuval Neriya, described the situation in the occupied territories as one of "Oppression, humiliation, maltreatment, and collective punishment." Other soldiers spoke of particular incidents:-

I witnessed many cases of collective punishment; I saw a shocking case. A soldier wrote the identity numbers of Arab prisoners on their arms. Ironically it was Holocaust Day. The feeling is that such things are legitimate. -- Gabi Boinot

I saw a shocking thing. They put clubs in the hands of newly recruited soldiers, who can't use guns yet, and told them: "Have a go at the locals." The Arab detainees clean the lavatories, the rooms, and the plates of the soldiers. This is unheard of. At night they are put in a small room and beaten. Many of them can't stand on their legs afterwards. And these are detainees, most of them won't even be brought to court but will be released due to lack of evidence. -- Rami Avni

-- Al Hamishmar 11.5.82; Jerusalem Post 11.5.82

As a result of the press conference and the ensuing publicity seven soldiers were brought to trial in the autumn to face a variety of assault charges. The trial was still underway at the end of 1982(*).

Although strictly against article 33 of the Fourth Geneva Convention, which prohibits the occupying power from punishing persons for offences they have not personally committed, collective punishment is common in the occupied territories. The most common form of collective punishment is curfew. Following annexation of the Golan Heights in December 1981, the Druze inhabitants declared a general strike and refused to accept Israeli identity cards. In reprisal the Northern Command Commander, Amir Drori, ordered a curfew. Thousands of Druze were forbidden to leave their village or enter any other village although they were able to move around in their own village. On 15

(*) The trial lasted on and off until February 1983 and heard evidence from a number of important figures, including the OC Central Command, Uri Orr, and the Israeli Chief of Staff, Rafael Eitan. The court reached its verdict on 17th February, 1983. Three of the defendants were acquitted and the other four were found guilty and sentenced to prison terms of between two and six months. In the evidence that came before the court, the following statement written by Uri Orr:-
"...Agitators are to be firmly dealt with and detained ... sanctions are imposed in the territories, collective punishment I issued an order that parents of rioters are to be punished ... The civil administration should make use of sanctions in places where there are problems. For example, prevention of benefits that are within the military government's power. Also curfew, passage over the bridges, non-issuance of permits ... this for the purposes of punishment."

March, 1982, Ha'aretz carried the the following editorial:-

..... 12,000 inhabitants who until now were non-violent, politically passive until the annexation to Israel was inflicted on them have been imprisoned in their villages for over four weeks now. No-one can come in, no-one can come out. The phones are disconnected, the villages surrounded by barbed wire, like Jewish settlements in Mandate times, during the anti-British struggle. The inhabitants are imprisoned in their villages without any food supplies except what the Army is prepared to sell, without any medical services, medicines and other urgent things, and in cases, without electricity. Their shepherds are forbidden to take out their cattle to the fields. They are all forbidden to tend their fields and their orchards. All the Israeli journalists were forbidden to enter the village, except one 'guided tour', like in a prison. The Golan Heights is now the only area both in Israel and in the (occupied) Territories which journalists are forbidden to enter. Why? The Army must have something to hide.

The siege of villages is taking place by force of the draconian Defence Regulations 1945. But the needs of defence did not cause this siege. There was no emergency in the Golan before its Druze inhabitants were besieged, and the Defense (Emergency) Regulations were used to achieve a political aim. The siege, together with its unusual severity, is a collective punishment for the decision of those inhabitants, who seem to be the majority, to protest their annexation and the administrative arrest of their leaders, using an instrument which was until now completely legitimate in Israel to which they were annexed -- a general strike.

In November, Aharon Bakhar published the testimony of a soldier in an article in Yedioth Ahronot (12.11.82):-

A closure was declared between 6 and 16 o'clock. The closure was announced to the inhabitants by loudspeakers and announced to the Mukhtars. It was really carried out by the soldiers who passed through the village and sent people to their homes. The instructions given (to the soldiers) by the batallion commanders and the officers, on several occasions, were to beat up every person who was found outside, and in cases of rioting to arrest him in addition. About 12 persons, including children, were arrested after a riot. Most of them were beaten up with clubs after arrest.

In order to remove stones and refuse, including heavy rocks, old men and women (since the young men all escaped) were compelled to leave their homes, and under threats of clubs and together with being cursed, made to clean up the mess.

After stones were thrown at soldiers, seven persons were arrested arbitrarily. Only one of them was suspected of being involved in stone-throwing. They were beaten in public in the centre of the village, so that people would see and be afraid, and kept for half a day in a storeroom, without any water or

food, or the possibility of using a WC, and after this sent to their homes. One of them had his arm broken from this beating, and he received only a ridiculous dressing for it, and even this contrary to express orders not to help him at all.

This extract is taken from the testimony of an Israeli soldier who had recently returned from reserve duty in the occupied territories. It was presented to a Member of the Knesset, Shevah Weiss, who passed it on to the Knesset Foreign and Security Affairs Committee. No action was taken.

It is not just the Israeli army that is responsible for acts of brutality against the local population. Both Jewish settlers and members of the Village Leagues have been similarly involved. An article by Michael Meron in Yedioth Ahronot (29.10.82) described the settlers of Kiryat Arba, following the arrest of four of their number on charges involving the use of explosives. Meron met with a number of settlers and their view of Palestinians were quoted. Tzvi Katzover, husband of the deputy head of the local council, had this to say:-

The Arabs don't understand democracy. They understand a different language. With them you must use collective punishments in order to deter.

In an affidavit submitted to LSM a 45-year-old Palestinian woman tells of attempts made by settlers over a number of years to force her and her family to leave their home in Hebron. These attempts involved the use of terror, including two bomb attacks. Nobody has ever been brought to trial to face charges relating to these events (In Their Own Words p. 16).

In an article about settlers published in Davar (9.4.82), Dani Rubinstein wrote the following:-

The truth is that they (the settlers) can behave as they wish in the (occupied) territories, not only when they are under attack, but even with their punishment operations. Those who broke car windows in Arab towns have never been caught. Those who threw hand grenades at the house of the widow from Hebron have never been caught nor those who put bombs under the cars of the Arab mayors. And if some of them are caught, as in the case of causing damage to Arab houses in Hebron or the murder of the Arab from East Jerusalem, the Lederman affair, are not punished seriously, or they are freed. (*)

(*) In July 1982, a Justice Ministry committee to investigate anti-Arab vigilantism by Jewish settlers in the West Bank was established under the chairmanship of Deputy Attorney General Yehudit Karp. In May 1983 Karp resigned her position because no action had been taken on recommendations made by her committee. According to the Jerusalem Post (23.5.83) the Karp Report lists some 75 incidents in which there was evidence of settler vigilantism, intervention by politicians on

The Village Leagues, armed and financed by the Israeli authorities, have also meted out "cruel and degrading treatment". On April 7, 1982, members of the Bethlehem Village League were involved in a savage attack on the university which left two people in the hospital (Jerusalem Post 9.4.82 and In Their Own Words p. 28). Although those involved in the attack were clearly identified, no-one was ever charged.

The condition in which Palestinian prisoners are kept also gives grave cause for concern. On February 10, 1982, the Israeli League of Human and Civil Rights issued a bulletin by Joseph Algazy, secretary of the League, which detailed prison conditions. The report speaks of inadequate food, lack of exercise, great overcrowding, and of common illness:-

Medical care in prisons is far from satisfactory. Because of malnutrition, lack of vitamins, lack of sun and fresh air and the low hygiene conditions, many prisoners suffer from eye diseases, rheumatism, anaemia, haemorrhoids, loss of weight, teeth and gum diseases, ulcers, weakness and nerve disorders.

The Report devotes a lot of space to the activities of the ICRC. Since 1978 Israel has permitted delegates of the ICRC to visit security detainees without witnesses within fourteen days of arrest. The Israeli authorities promise to notify the ICRC of the arrest of detainees within 12 days of their arrest. But, the Report fails to mention that the delegates are not allowed to transmit any information about or arising from their visits other than the date of arrest, the place and date of the visit, and the state of the detainee's health (letter to the head of the delegation from Dani Matt, Chief Co-ordinator in the Occupied Territories, 18.3.79). It also fails to mention that the Israeli authorities reserve the right to refuse visits for reasons of military security or necessity. The Report mentions the fact that an ICRC physician may conduct a medical examination of a detainee without a witness. It does not mention that an ICRC physician must be a Swiss, who will not necessarily be fluent in Arabic. The physician may make a report, but it can only be passed onto the Israeli authorities and cannot be made public. It is not even publicly known how many such reports have been submitted to the Israeli authorities. This prohibition on making public information available to the ICRC severely limits the contribution they can make towards safeguarding the rights and welfare of Palestinian prisoners.

behalf of arrested suspects, and the dependence of the police on the military government in the territories. "Among the documents prepared by the Committee was a list of incidents in which nobody has been arrested - or charged - involving identified Jewish settlers acting against West Bank Arabs." (Jerusalem Post 12.5.83)

1e. Arbitrary arrest and imprisonment

U.S. Report

"During 1982, no West Bank residents were held in administrative detention."

Almost half of this section is devoted to administrative detention, which was authorized under the law in force before occupation and continued to be so after 1967. In 1980 changes were made to the law, restricting its use and providing for a more frequent system of review. The Report states that 13 Golan residents and 1 resident from Gaza were held for varying periods of time but were ultimately released. The Report details Israeli arguments that administrative detention is occasionally necessary to prevent terrorist operations when a court proceeding could jeopardize sensitive security information. The Report states that the arrest of a large number of Arabs after terrorist incidents or demonstrations is common, although such arrests do not usually result in charges or prolonged detention.

The final paragraph deals with the use of restriction orders which was reported by Amnesty International in October 1982. Since January 1980, 77 persons were ordered to remain within the confines of their town or village for periods of three months or more. Such restrictions often make it difficult for those affected to practise their profession or pursue their course of study. They involve no formal charges and are ordered by the military commander with no requirement for judicial review.

By devoting a large proportion of this section to administrative detention and stating that the practice has now largely been discontinued, the immediate implication of the Report is that arbitrary arrest and imprisonment is on the decline.

LSM Reply

The Report is factually incorrect in its claim that no West Bank residents were held in administrative detention in 1982. On March 2, 1982, Ali Awad El-Jammal was released from Ramallah prison. He had been arrested on Saturday, May 9, 1975 and imprisoned for seven years without charge under the administrative detention law (In Their Own Words p. 48). During the 1970s administrative detention had become a common method of control, but international pressure led to a gradual decrease in its use. The implication that the decline in the use of administrative detention has resulted in a decline in the overall number of arbitrary arrests is false. In many ways, administrative detention has been replaced by travel restriction orders (town arrest), while mass arrests and detention continue to be a common feature of life in the occupied territories. Ali Jammal himself was not free upon his release from prison. He was handed a restriction order confining him to his home town of Jenin and to his house during the hours of darkness. The order was still in force at the end of 1982. Such orders are usually valid for six months and confine the

subject to his town or village and often require that he remain at home during the hours of darkness. LSM interviewed all those who had been served with such orders in the occupied territories and by the end of 1982, 81 such orders had been issued. No reasons are given for the imposition of the restriction other than the all-encompassing "security reasons".

Under Military Order 378, the military authorities in the West Bank have broad powers of arrest. Section 78(a) states that a soldier may arrest, without an arrest warrant, any person who commits, or is suspected of having committed an offence under the order. A person so detained can be held for up to 18 days on the warrant of a police officer before being brought before a court. A Military Court may then extend the arrest warrant for a period not exceeding 6 months (section 78(f)). It has become common for this 18-day period to be used as a punishment in itself -- people will be held for the maximum period and then released without charge. After demonstrations and other disturbances, it is common for mass arrests to take place. On February 27, 1982, David Shipler reported, in the New York Times, the arrest of many Palestinian youths and their detention for periods of several weeks:-

Boys of 14 and 15 are taken by the Israeli army for days of interrogation without formal charges, without counsel, without visits from their parents.

Mussa Ahmed Massud, 15, was arrested on December 12, 1981, and released after 49 days. The IDF spokesman, Aluf Ya'acov Even, said that he "did not confess during questioning and was released for lack of evidence."

1f. Denial of Fair Public Trial

U.S. Report

"Jordanian law as modified by Israeli authorities is in force in the West Bank in civil and criminal matters, as is British mandatory law in Gaza. The adjudication of these laws has been left in the hands of an Arab judiciary which acts independently of the Israeli authorities."

The Report refers to the existence of three separate systems of justice:- military courts trying alleged security offenders; local Arab courts trying all other cases; settlement courts which apply Israeli law.

The Report states that military court trials are heard by a military judge. Most trials are open to the public. Regulations require that simultaneous translation of trial proceedings is provided in the language of the accused, although the Report notes that there have been Arab complaints that they are unable to follow the proceedings and that they are often asked to sign confessions in Hebrew, a language most of them do not understand.

The third paragraph of the Report deals with the process of arbitrating land disputes. The Report records 'Arab complaints' that appeals against land seizures are heard by tribunals composed of military officers which do not provide an independent, fair review. There are also complaints that the 21-day period for submitting documents substantiating private ownership does not allow proper preparation of an appeal in cases involving declarations of State Land. The Report notes that often work is begun on seized land, or house demolitions are carried out before cases have been heard judicially.

The Report concludes by outlining the possibility of appeal to the Israeli High Court against civilian court verdicts and orders of the Civil Administration. It states that no right of appeal of military court verdicts exists, but fails to mention that this violates the provisions of the Geneva Convention.

LSM Reply

The Report states that Jordanian law as modified by the Israeli authorities is in force in the West Bank, although this gives no idea of the scale of modification introduced by the 1015 military orders in force in the West Bank. The effect of these new military orders is to render the Jordanian law virtually unrecognizable. Since occupation there are three judicial systems:- the military courts, the settlement courts, and the local courts. The military courts were set up soon after the occupation began and were given the power to try offenders against specific security laws. However, over a period of time the military courts have usurped much of the jurisdiction of the local courts.

The local courts exercise jurisdiction over both civil and criminal matters. Except for the Israeli Officer in Charge of the Judiciary and few other employees, all those involved in the administration of the judiciary and the judges are local Palestinians. However, with the Officer in Charge of the Judiciary having overall charge of the local courts and the changes that have been made to the Jordanian law on the Independence of the Judiciary, it is no longer true to say that the local courts act completely independently of the Israeli authorities. Under Military Order 1000, the Military Commander has the power to withdraw cases from the local courts without giving any reason. Under the Jordanian law there was a rigorous system of court inspection which was designed to maintain and guarantee the independence of the judiciary; since August 1981 no-one has performed the role of the court inspectors. This lack of inspection together with the lack of finance and other resources made available to the local courts has resulted in a very great deterioration in the standard of justice. At the same time, legal fees have been greatly increased by the Israeli authorities, making the courts inaccessible to many poorer Palestinians.

The Report mentions that there is no right of appeal against military court verdicts other than the area commander's power to exercise the right of commutation of sentence. The Report fails to mention that this violates the provisions of the Fourth Geneva Convention. Article 3(1)(d) prohibits:-

the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized people.

In the official commentary to the Convention the following comment is made:-

All civilized nations surround the administration of justice with safeguards aimed at eliminating the possibility of judicial errors. The convention has rightly proclaimed that it is essential to do this even in time of war.

Military Order 172 set up the Objections Committees which are composed of Israeli officers. They hear appeals against land seizures and, by the end of 1982, over 20 other categories of appeal. The Report mentions that there have been Arab complaints of a lack of independence, but does not mention the fact that the decisions of the Objections Committees are only recommendations made to the Area Commander. He then chooses whether or not to abide by the recommendation.

The Report speaks of the possibility of appeal to the Israeli Supreme Court. This possibility is not a right and the court itself decides whether or not it has jurisdiction in a particular case. At any time the Israeli Attorney-General could successfully challenge the court's jurisdiction to hear any cases emanating from the West Bank.

1g. Invasion of the Home

U.S. Report

"Under the occupation regulations, military authorities can and do enter private homes and institutions in pursuit of security objectives without prior judicial approval."

The Report details the Israeli practice of demolishing or sealing the houses of families of individuals believed to have been involved in security incidents. In 1982 nine houses were demolished and nine sealed. One house was subsequently unsealed. The Report states that there is no judicial process prior to a decision to demolish or seal a dwelling but does not mention the fact that the practice is outlawed by international law. A number of houses were also demolished on the grounds that they had been illegally constructed. The Report records Palestinian complaints that building permits are very difficult to obtain.

The final paragraph mentions Arab complaints that Israeli settlers uproot plants and saplings and take them, without payment, for their own use.

LSM Reply

It is true that Israeli soldiers can, according to Military Order 378, and do enter private homes and institutions. It has also been the case that Israeli settlers have entered private houses and attacked private property. The Report gives no indication of the extent of such invasions other than to note "Arab allegations" concerning plants and topsoil. In February 1982 Israeli settlers threw handgrenades at the home of Sadeah al Bakri, who lives close to the settlement of Kiryat Arba (In Their Own Words p.18). In October settlers from Kiryat Arba accompanied by Israeli soldiers destroyed several houses in the Old City of Hebron. The destruction was completely without justification and the only reason given was that the settlers wish to build a Jewish quarter in the centre of Hebron (Jerusalem Post 29.10.82 and In Their Own Words p.18).

The Report makes no mention of the fact that house demolition and sealing is strictly outlawed by the Fourth Geneva Convention. Article 33 states:-

No protected persons may be punished for an offence he or she has not personally committed. Collective punishment and likewise all measures of intimidation or of terrorism are prohibited.

Article 53 states:-

Any destruction by the Occupying Powers of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or co-operative organisations, is prohibited, except where such destruction is rendered absolutely necessary by military

operations.

On November 25, 1981, the ICRC issued the following official interpretation of Article 53:-

In the opinion of the ICRC, the expression "military operations" must be construed to mean the movements, manoeuvres and other action taken by the armed forces with a view to fighting. Destruction of property as mentioned in Article 53 cannot be justified under the terms of that article unless destruction is absolutely necessary -- i.e. materially indispensable -- for the armed forces to engage in action, such as making way for them.

This exception to the prohibition cannot justify destruction as a punishment or deterrent, since to preclude this type of destruction is an essential aim of the article.

2. Respect for Civil and Political Rights, Including:

2a. Freedom of Speech and Press

U.S. Report

"Freedom of expression is restricted on stated security grounds."

The Report deals with the press, publications, speeches, and education. The section on the press notes that the Arabic press, located mainly in East Jerusalem, is frequently outspoken in its criticism of Israeli policies and as a result reports and editorials are regularly censored. Distribution of the Arabic press has occasionally been suspended. The Report further states that several journalists have been restricted to their homes in the West Bank and thus have been prevented from working in their offices in East Jerusalem. The Report goes on to note that educational materials, periodicals and books originating outside Israel are censored for alleged anti-Israeli, anti-Jewish, or pro-Palestinian nationalist content. An unpublished list of banned publications exists including approximately 1,120 titles. Possession of a banned publication, although legal in East Jerusalem and Israel, is a criminal offence in the West Bank.

The Report states that membership or expressed support for the aims of proscribed organisations is grounds for arrest, as is the display of the Palestinian flag or its combined colours (Red, Green, Black, and White).

The fourth paragraph of this section deals with West Bank schools and universities, and mentions the fact that Bir Zeit University was closed for a total of five months, and the other universities for shorter periods, by the occupation authorities. School openings in the autumn were delayed for a total of three weeks. The Report states that schools are free to select which courses will be taught and professors are not harassed in the classroom. Finally the Report makes reference to the requirement introduced in 1982 that non-resident university teachers in the West Bank sign a declaration renouncing the PLO as part of their work permit application. The teachers refused to do so, and as a result 26 teachers were expelled and another 27 were allowed to remain in the country but were banned from teaching.

The overall effect of this section is to give the reader the impression that although freedom of expression is restricted, such restriction only occurs, on stated security grounds, to prevent expression of anti-Israeli or anti-Semitic sentiments.

LSM Reply

We, the Jews that have been through so many fires, so much repression of religion and repression of culture, today restrict, prevent and confiscate literature in the occupied territories. -- Uri Bernstein (Siman Kri'ah - Tel Aviv University Press quoted in Ha'aretz 12.3.82).

The practical implication of the laws relevant to freedom of speech is that all publications are forbidden in the occupied territories unless specific permission for them has been obtained. (It should be noted that in this section "occupied territories" refers to the West Bank and Gaza and does not include East Jerusalem, where Israeli law applies and the laws on censorship are far more lenient.) This fact is often used as a means to arrest and charge Palestinians who could not otherwise be reasonably suspected of any offence.

Military Order 50 prohibits the importation into the West Bank of any publication without a permit from the military government. Publication is broadly defined to include any pamphlet, newspaper, magazine, manuscript, book, document, prepared, given, sold, or shared with any person. Under Military Order 101, section 6 it is forbidden to:-

print and publish in the area (West Bank) any publication, advertisement, proclamation, picture, or any other document which contains any article with a political significance except after obtaining beforehand a licence from the military commander in the area where the printing or publishing is to be carried out.

The Military Government maintains a list of books that are specifically banned in the West Bank and for which the censor may not issue a permit in accordance with Military Order 50. A number of booksellers have been prosecuted for handling banned books according to the head of the civil administration (Jerusalem Post 23.3.82). By the end of 1982 the list contained over 1,000 titles. Up until May, 1982 the banned book list was not available to the public, but following a campaign in the Israeli and international press the list was made public. On May 7, 1982 Ha'aretz published an article by Amos Elon which discussed the "Book Index". The article reveals some of the titles that are banned:-

Among other things, the lists include books about the Israeli army by Ha'aretz military correspondent, Ze'ev Schiff, and by the former Deputy Prime Minister Yigal Alon, Of Blessed Memory; The Jew from Malta by Christopher Marlowe (1554-1593). George Antonius' classic, The Arab Awakening (1938), a biography of Herzl by Desmond Stewart and just about every important book of poetry by a Palestinian poet in the last forty years. Poets are especially black sheep for the censor.

The Arabic newspapers published in Jerusalem are also a target for the censor. Everything written has to be submitted to the censor before publication. The newspapers must have a permit for distribution in the West Bank and this is usually granted on a yearly basis. In June 1980 the permits of Al Fajr and Al Sha'ab were withdrawn and they can no longer be distributed in the West Bank. During the first few weeks of the Israeli invasion of the Lebanon in June 1982 all newspapers, including the Israeli daily The Jerusalem Post were prevented from entering the West Bank. In its December 24 issue the English language weekly edition of Al Fajr published a breakdown of articles published during 1982 --- 1079 original articles were

submitted to the censor, 379 (34%) of those were completely censored and 59 articles were so cut as to be rendered unuseable.

In addition to direct censorship, the military government has harassed journalists. Three editors were placed under town arrest for much of 1982. Two of them were confined to Ramallah and were unable to travel to their newspaper's offices in Jerusalem. They were unsuccessful in an attempt to gain permission to travel into work for a limited period each day from the Israeli High Court.

Education was also restricted by the Israeli authorities during 1982. Apart from censorship of books which affects universities and schools more than the general public, universities and schools suffered closures and harassment of students as is recorded in the U.S. Report. The Report mentions that schools are free to teach what they like and that professors are not harassed in the classroom. This statement ignores Military Order 854, which although it has not yet been enforced, remains on the statute books and could be enforced at any time. The order provides for the licensing of universities and authorises the authorities to entertain non-academic "public order" considerations when issuing teaching certificates.

2b. Freedom of Peaceful Assembly and Association

U.S. Report

"The Israeli occupation authorities have permitted a wide range of labor, professional, and fraternal groups organised before 1967 to continue to function in the occupied territories."

The Report states that no political parties or other groups regarded as political are permitted. Unions are allowed, although no new unions have been created since 1967, and several have been disbanded for engaging in political activities. Strikes are legal so long as they are not undertaken for political purposes. The Report notes that membership in the Histadrut, the Israeli labor organisation, is open to Arab workers in East Jerusalem although most have declined membership. It fails to mention, however, that this is because East Jerusalem is considered by the Israeli authorities to be part of Israel and that membership in the Histadrut is not available to workers from the West Bank and Gaza, even those working in Israel. The Report states that there have been no reports of arrest or imprisonment solely for union activity, although searches of union premises are often carried out.

Finally the Report notes that permission is required for public gatherings and that any sizeable gatherings have been dispersed by the security authorities.

LSM Reply

The section on freedom of assembly and association provides a good example of how the style of writing and the emphasis can radically affect the overall impression given by a report. In the State Department Report on Poland is written :-

Although the bill provides a framework for the creation by workers of what are described as independent, self-governing unions, its one unquestioned objective was to delegalise Solidarnosc and prevent a similar movement from ever emerging again. The bill narrowly restricts trade union activities to matters of wages, working conditions, and living conditions. The legislation bars unions from attempting to challenge government policies. (U.S. Report p.971)

The Report on the occupied territories states :-

Strikes are legal as long as they are not undertaken for political reasons.

The position of unions in Poland and the West Bank is basically the same with regard to the right to strike, but the impression given is that workers in the occupied territories are in a far better position.

According to Israeli figures there are now 35 trade unions in the West Bank and Gaza (Labour and Employment in Judea, Samaria and the Gaza District, Jerusalem 1983, p.20). The law forbids labour unions to engage in any political activity and Military Order 859 makes it illegal for any person to be elected to the administrative committee of a trade union unless he or she is working in the relevant trade or union. The order also restricts the possible candidates for election by making it necessary for the union to submit a list of the candidates' names for approval by the Israeli authorities. Any person who has been convicted of a security offence is automatically ineligible for election.

In August 1982, the premises of the Bethlehem union of workers were raided by the security forces. A complete search was carried out and all those present were arrested and detained. They were all subsequently released without charge, which leads one to believe that the sole reason for their arrest was their trade union activity. In addition several prominent union activists remained under town arrest during 1982 including Abed Abu Diab (member of the Electricity Company Employees Union); Ali Abu Hilal (Secretary of the Abu Dis Union of Workers); Akram Haniya (Chairman of the Journalists Union); Hashem al-Massri (member of the Nablus branch of the West Bank doctors union). None of them were ever given any official reason for their restriction orders.

Under Military Order 101, section 3 it is not permitted to carry out any march or convene a meeting except with a permit issued by the military commander. The order defines a meeting as a congregation of ten (not five as is stated in the U.S. Report) or more people in a place where a political discussion is heard or discussion on a subject which can be explained as political is heard. A march is defined as a march of ten or more people together or ten or more people assembling for the purposes of marching. The order provides for a punishment of ten years imprisonment and/or a large fine for contravention of this order.

2c. Freedom of Religion

U.S. Report

"There is complete freedom of religion in the occupied territories. Israel has an exemplary record in protecting the Muslim and Christian Holy Places and has usually assured freedom of access thereto."

The Report then goes on to slightly qualify these opening sentences. It is stated that on occasions West Bankers have been prevented on security grounds from entering Jerusalem to attend prayers. It also notes that Jewish groups have similarly occasionally been barred from entering the Temple Mount (Al Harem ash Sharif).

A paragraph is devoted to the situation in Hebron where Jewish settlers have prevented Muslim worshippers from entering the Ibrahim mosque.

The Report notes the attack that took place on Easter Sunday 1982. An Israeli opened fire and two people were killed. The Israeli government condemned the attack and the attacker was subsequently charged and was still on trial at the end of the year (*).

The Report also notes that there were a few cases of desecration of Christian churches in Jerusalem which were attributed by the press to ultra nationalist Jewish groups. The Report points out that the Israeli government was again quick to condemn the attacks.

As is common throughout the Report, the opening sentences set the tone for the whole report, and the reminders that the Israeli government was always quick to condemn religiously motivated attacks maintains the impression that there is complete freedom of religion in the occupied territories.

LSM Reply

In fact the situation is not as good as the Report implies. There have been regular attacks on the Al-Aqsa mosque in Jerusalem, in addition to the attack carried out by Alan Goodman on April 11 (Easter Sunday) which left two Palestinians dead and another 11 wounded (*). On July 28 a group of armed Jewish students were able to seize three Arab houses near the Temple Mount area and prevent access to the Al-Aqsa mosque and the Dome Of the Rock. The students claimed that they had permission from the "proper authorities". They were finally persuaded to leave after twenty-four hours, but no arrests were made

(*) On April 7, 1983 Alan Goodman was sentenced to life plus two terms of twenty years in prison on one count of murder and four counts of attempted murder by the Jerusalem District Court.

(Jerusalem Post 29.7.82, 30.7.82). Throughout the year there have been threats made against the Al-Aqsa mosque and it remains the expressed desire of many ultra-nationalist Jewish groups to destroy the mosque and rebuild the Temple.

In Hebron the situation has been a lot worse. The Ibrahimi mosque, a site sacred to Jews and Muslims alike, has been a regular trouble spot and on several occasions, Jewish settlers have refused access to Muslim worshippers.

Acts of vandalism against religious property have been common. In June unidentified persons broke into the Islamic court in East Jerusalem. Arab religious leaders have complained that the police do not seriously investigate acts of vandalism directed against Christian or Muslim targets.

In November, there was an attempt to revoke the visa of the Armenian Grand Sacristan, Karekin Kazanjian. No reason was given by the Israeli government for the decision, but it was seen as a grave interference in the internal affairs of the Armenian Church. The matter remained unresolved at the end of the year.

The actions of Alan Goodman, which are mentioned in the Report, can well be written off as those of a madman and no society can give full protection against madmen. But similar attacks (although not resulting in such violence) have continued without any apparent effort on the part of the Israeli authorities to review policing methods. It is true that in most cases the Israeli government was quick to condemn such attacks but its continued support for the West Bank settlements in which many of the ultra-nationalist extremists are living, and its lack of action to prevent further attacks on Christian and Muslim property does little to assuage the real fears and worries of Muslims and Christians.

2d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.

U.S. Report

"Freedom of movement is in many respects unrestricted for Arabs within the occupied territories."

The Report continues by noting such restrictions as do exist. It is stated that although some 70,000 Arabs are free to travel into Israel to work, they must return to the occupied territories every night unless they have a permit to stay in Israel overnight. Mention is made of at least four mayors and numerous other individuals who were forbidden to leave their towns during 1982 (this subject is dealt with more fully in section 1e).

The Report then deals with the travel restrictions imposed upon those Druze inhabitants of the Golan Heights who refused to accept Israeli identity cards.

The third paragraph covers foreign travel, which the Report states is allowed to most inhabitants of the West Bank and Gaza, although certain categories of people are restricted and the Report mentions young men and bans on foreign travel placed upon residents of specific towns following demonstrations or terrorist attacks. Yet again the Report fails to mention that such measures violate the Fourth Geneva Convention ban on collective punishment. The Report notes that several prominent Palestinians have been refused permission to make the Muslim pilgrimage to Mecca.

Travel to and from Jordan is allowed, although the Report mentions that inhabitants of the West Bank, as well as other Arabs are subject to rigorous searches for weapons and other contraband and that there have been complaints that such searches are unnecessarily rigorous and constitute harassment.

LSM Reply

The facts do not appear to back up the Report's opening statement that freedom of movement is in many respects unrestricted. Under Military Order 297 (as amended) all Arabs aged 16 and over in the West Bank are required to carry identity cards issued by the Israeli military government. These must be shown on demand to Israeli soldiers and other authorised officials. There is always the possibility when travelling within the West Bank of an Israeli roadblock at which cars from the occupied territories, which have number plates of a different colour from those in Israel, will be stopped, while yellow plated Israeli cars will be waved through. It is a criminal offence to be found without an identity card. In addition, the cards of ex-political prisoners are usually stamped with a distinguishing mark and this results in ex-prisoners being singled out for further harassment at road blocks and elsewhere where identity

cards must be shown. There have also been many instances when Israeli soldiers have confiscated the identity cards of demonstrators. This extra-judicial punishment has the effect of restricting travel until such time as the cards are returned, usually within a few days.

All residents of the occupied territories wishing to travel abroad for study, work, or pleasure must obtain an Israeli exit visa which contains the permission for them to return. The Military Government reserves the right to refuse to grant exit visas or to grant them subject to special conditions. For example, young men between the ages of 16 and 25 are not permitted to return to the occupied territories within six months of leaving. To travel across the bridge to Jordan, Palestinians from the West Bank and Gaza must apply for special documents. The Military Government can and does refuse to grant such documents without reason. In some cases all the residents of a particular town or village wishing to travel to Jordan have been turned back at the border in punishment for disturbances in the village. For example, on May 25, 1982, the Military Commander ordered that the residents of Burghesh would not be allowed to cross the Jordan river bridges. It was claimed that a grenade had been thrown in the village. The villagers were still being prevented from crossing the bridges at the end of the year. Such collective punishment is strictly against the provisions of the Fourth Geneva Convention, article 33 of which expressly prohibits punishment for acts for which those being punished are not personally responsible.

The Report makes no mention of the repatriation of those Palestinians who left the country during the 1967 War. An estimated 350,000 Palestinians and Syrians fled during or immediately after the war. Israel began to allow a limited return in 1968 under the Family Reunion scheme. Applications for reunion are hindered by the fact that Israel does not make public the criteria on which it judges applications and by the end of 1982 less than ten per cent of the refugees had been approved and accepted for repatriation.

2e. Freedom to Participate in the Political Process

U.S. Report

"The West Bank and the Gaza strip have been under Israeli military occupation and rule since 1967. The status of the Golan Heights was similar until Israeli law, jurisdiction, and administration was extended to the area in 1981. In 1967, the Government of Israel declared East Jerusalem, including adjoining areas of the West Bank, to be under Israeli law, jurisdiction, and administration, and the inhabitants have had the right to participate in Israeli national and municipal elections since then."

Having made this statement the Report fails to mention that annexation, as happened in the Golan and East Jerusalem is prohibited by article 47 of the Fourth Geneva convention.

The Report gives details of the municipal elections held in the West Bank in 1972 and 1976, although it does not mention that no elections have been held in Gaza. The Report then goes on to state that, following an attack on Israeli settlers in Hebron in 1980, the elected mayors were prohibited from engaging in political activities not directly related to municipal administration. Following the refusal of the mayors to meet with the newly created Civil Administration seven mayors and two local councils were dismissed.

The fourth paragraph of the Report concentrates on the village leagues, and the efforts of the Civil Administration "to interpose the leagues as an intermediary between the inhabitants and the occupation authorities." Mention is made of "complaints" by West Bankers that the leagues' expanding activities undermine the elected Arab political structure.

The final paragraph deals with the position of Palestinian women. It is stated that "women generally do not have equal status." This is then followed by a brief summary of the efforts that have been made since 1967 to better their situation. The percentage of girls in schools has increased and in 1976 women were given the vote. The Report states that few women in the occupied territories participate in the hired labour force, but those, "who work in Israel or for Israeli firms receive the full protection of Israeli labour law equally with men."

Although the Report deals with specific matters which have a relevance to a discussion of freedom to participate in the political process, no view is expressed as to whether such freedom exists or not.

LSM Reply

It would be true to say that in 1982 there was little freedom for the Palestinians of the occupied territories to participate in the political process. As has already been mentioned in section 2b, section 3 of Military Order 101 (Concerning the Prohibition of Incitement and Adverse Propaganda) states the following:- "It is not permitted to carry out any march or convene a meeting except with a permit issued by the military commander." Section 1 contains the definitions. "Meeting" means a "congregation of ten or more people in a place where a speech is heard on a political subject or on a subject which can be explained as a political subject or who are gathered for the purpose of deliberating on such a subject." "A march" is defined as "a march of ten or more people together; or the assembling for the purpose of marching together from one place to another for a political purpose or for a matter which can be interpreted as a political matter whether they were in fact marching and whether or not they had congregated."

The Report notes the dismissal of the mayors and local councils during 1982, but this is introduced by reference to an attack on settlers in 1980. This seems to be gratuitous information but is in keeping with the general tone of the Report. The attack is not explained but implies justification for subsequent Israeli restrictions on the political activity of West Bank mayors. No mention is made of the fact that the mayors of Hebron and Halhoul were immediately deported after the attack, that a strict curfew was imposed on Hebron lasting over a month, that all telephone lines into and out of Hebron were cut off for 45 days, and that merchants from Hebron were denied permits to export their produce across the bridge to Jordan for over a month (West Bank and the Rule of Law p.80). Nor is it mentioned that on June 2, 1982 bomb attacks were carried out on three West Bank mayors, the mayors of Ramallah and Nablus both losing limbs. Those responsible have never been brought to trial.

The military government has sought to prevent the development of any independent political movement in the occupied territories. The National Guidance Committee, a committee of prominent political figures from the occupied territories, established in 1978, was banned in March 1982 and many of its members were placed under travel restrictions. At the same time, there was a continued effort to develop the Village Leagues. Set up under Military Order 752 which empowers the military commander to "license the establishment of associations for the purpose of increasing co-operation and relations between the village councils in the area", the leagues remain responsible to no-body apart from the military commander. They have no official membership figures and no elections for leadership positions. As the U.S. Report states, the leagues have been involved in processing applications for the various permits and licences required by the military government, who have often refused to accept requests for services without the participation of the village leagues.

In July 1982, Military Order 998 was issued which affects elected councils, directors of charitable organisations, co-operatives and professional unions. The order prohibits these public institutions from receiving any money or other property without a written permit from the Israeli authorities. No money may be received from the "enemy" unless it is paid into the "Fund for the Development of Judea and Samaria" which is to be administered by the occupation authorities. "Enemy" is defined as anyone who has declared themselves to be at war with Israel or who proclaims themselves to be at war with Israel whether or not there have been combative military operations. This order has the potential of severely restricting the flow of funds and so further restricting the freedom to participate in the political process.

The final paragraph is devoted to the position of women. It is mainly concerned with improvements that have occurred during Israeli occupation. The enfranchisement of women is mentioned, but the right to vote is of little use if there are no elections in which to exercise that right. Military Order 830 declared that all existing councils should remain in office until further notice, and although their four year term has expired, no new councils have been elected since 1976.

3. Government Attitude Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights

U.S. Report

"For several years, the UN Human Rights Commission and other UN bodies have adopted resolutions condemning alleged Israeli human rights violations in the occupied territories. The US voted against most of these resolutions, regarding them as one-sided and politically motivated. Although Israel has been generally unresponsive to efforts by UN bodies to conduct investigations in territories under its jurisdiction on the grounds that its experience suggests that the reports of such investigations would reflect political bias rather than the facts, it has co-operated with recent visits by representatives of the World Health Organisation, and UNESCO.

"Amnesty International's 1982 report which covered 1981, stated that organisation's concern for the "imprisonment of prisoners of conscience, the use of administrative measures to physically restrict individuals or detain them without charge or trial, and the lack of effective safeguards to protect those in custody from ill-treatment." The report noted that in 1981 Amnesty called for the release of 28 prisoners of conscience and investigated the cases of 12 possible prisoners of conscience. A special Amnesty report criticised restriction orders. Freedom House's 1982 report noted that 'detentions, house arrest, and brutality have been reported against Arabs opposing Israel's Palestine policy.' "

LSM Reply

Most international attention in 1982 was focussed on violations of human rights in Lebanon but in its September 1982 newsletter Amnesty International wrote:-

AI wrote to Prime Minister Begin on 22 July expressing concern at the shooting and killing of unarmed demonstrators and at the repetitive nature of these killings which, it said could not, on the basis of available information, be attributed to self-defence or "panicky" reaction by troops.

As far as AI is aware, the Israeli government has not made any statement condemning the killings. On the contrary, it has urged the use of live ammunition during this disturbance. AI urged the Government of Israel to take all necessary steps to prevent further loss of life during demonstrations, to initiate an inquiry into the incidents in which the Palestinians had been killed and to make public its findings.

At the end of 1982 no such inquiry had been initiated.

4. Economic, Social, and Cultural Situation

U.S. Report

"It is obvious, however, that living standards have risen steadily throughout the period of Israeli control."

The Report states that much of this rise can be attributed to Palestinians working in Israel and to the remittances of Palestinians working in Arab countries. The rise is also attributed to the "open trade policy between Israel and the occupied territories."

In the second paragraph, the Report notes the restrictions placed on the construction of new factories in the occupied territories and the control of incoming capital. The confiscation of land for the purpose of settlement is said to have had an adverse effect on Palestinian agriculture and industry.

The final paragraph of the Report deals very cursorily with the cultural situation of the occupied territories. The main point made by the Report is that the basic educational needs are met by the military government and UNRWA. The Report states that primary school enrollment has nearly doubled under Israeli occupation and that the percentage of girls receiving education has markedly increased and stood at 45% of the student total as of 1981.

LSM Reply

As the U.S. Report correctly states, comprehensive statistical information is not readily available of all economic and social indicators with regard to the occupied territories. It is clear, however, that the economies of the West Bank, the Gaza Strip, and the Golan have not developed during occupation. Indicative of this is the fact that capital formation within the West Bank is almost exclusively in the areas of non-productive private construction, i.e. homes and shops, contrasting sharply with the position in Israel. Investment in the economic infrastructure, other than that aimed at the Israeli settlements, has been insignificant. It is true that per capita income, not always a valid indicator of living standards, has risen under occupation. But the rise has lagged behind that in Israel and, more significantly, Jordan, of which the West Bank was the most prosperous part until 1967. According to Israeli statistics, real per capita income in the West Bank has risen 11-12% per annum since 1967, and per capita GNP was \$1,379 in 1981 (U.S. Report p. 1183).

The Report mentions the open trade policy between Israel and the occupied territories, but does not mention that Israel has been the major beneficiary. Over 70% of the occupied territories import and export trade is conducted with Israel, and the occupied territories is the only major market with which Israel

enjoys a trade surplus. In many ways the occupied territories appear to have become integrated with Israel into regional economy under Israeli hegemony.

Since 1967, no new major industries have been established in the occupied territories and Israel restricts the construction of new factories through a number of regulations. In addition, new military orders passed in 1982 restrict the import of capital from outside the territories, especially from the Arab world, and permits are required from the military government for the import of any sum above \$3,000.

The taking of Palestinian land for the building of settlements has further adversely affected the livelihood of many Palestinians. Meron Benvenisti puts the figure of land seized in the West Bank at 1.5M dunams (out of a total area of 5.8 dunams), but further qualifies the figure by stating:- "... these calculations and classifications seem outdated. In 1979 the Israeli government adopted a new approach to land ownership which enabled it to seize practically any land needed for unlimited Jewish settlement in the West Bank." (The West Bank and Gaza Data Base Project: Interim Report No. 1, Benvenisti, Jerusalem 1982, p. 26)

The Military Government has always been aware of the enormous importance of land use planning and licensing. Amendments were made to the Jordanian Town and Village Planning Law 1966 which restricted Arab planning and licensing power to the areas of the Arab municipalities proper and vested all planning powers in the Higher Planning Council, a body composed of Israeli officials only. Military Order 393 empowers the military government "to prohibit or halt construction of buildings or impose conditions." This order has been frequently used to override the decisions of the local Arab planning commissions. At the end of 1979 a new policy was adopted. Arab development would from now on be limited to existing built-up areas and severe land use restrictions would be imposed on all Arab owned land outside towns and villages. The first planning document to be drawn according to this new policy is an outline scheme for a 275,000 dunam area bordering Jerusalem referred to as RJ5. Other plans are in the pipeline.

The effect of such restrictions is to either force Palestinians to seek work abroad or to seek work as day labourers in Israel, which in itself has an adverse effect on the cultural and social situation of the occupied territories. Emigration from the occupied territories is currently running at about 15,000 per annum and that figure includes a disproportionately high percentage of males between the ages of 21 and 35. According to Israeli statistics, 75,800 Palestinians from the occupied territories are employed in Israel, approximately 35% of the total work force (Statistical Abstract of Israel, 1982 Table XXVII/20). To this figure should be added many Palestinians who are unofficially employed in Israel (20,000 according to Benvenisti, p. 5) and the Palestinians employed in local

enterprises serving as Israeli subcontractors. The wages received by these workers may well have increased living standards, as is stated in the U.S. Report, but surveys conducted by the Histadrut General Federation of Labour show that the hourly wages of West Bank construction workers are 50-60% of the hourly wages of the Jewish "permanent" workers with the same labour specifications (Ha'aretz, August 17, 1982, quoted in Benvenisti, p. 6). A survey carried out by the National Insurance Institute in 1976 put the average monthly salary for Israelis at 1,300 Israeli lire.

The Report deals very briefly with the cultural situation of the occupied territories. No mention is made, for example of the ill effects of closure on education. Schools suffered from forced closures several times and the start of the 1982-83 school year was delayed for 34 days by order of the military government because of "the situation in Lebanon" (Jerusalem Post 24.10.82). Such closures are in addition to the days lost due to curfew or preventative arrest. Such arrests increased in number immediately before exams and many students were unable to sit their final school matriculation exams because of arrest. The students would be released without charge once the exams were over.

The censorship that has a dramatic effect on the cultural life of the occupied territories has already been mentioned in section 2a, as has the situation of the universities.